

01-28-02

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01/25/02  
JC658 U.S. PTO

Practitioner's Docket No. 700953-047113-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jeffrey Schlom; Judith Kantor; Donald Kufe; Dennis Panicali, and Linda Gritz  
Application No.: To be assigned (Con't of 09/366,670) Group No.: To be assigned  
Filed: To be assigned (August 3, 1999) Examiner: To be assigned  
For: RECOMBINANT POX VIRUS FOR IMMUNIZATION AGAINST MUC1  
TUMOR-ASSOCIATED ANTIGEN

JCE79 U.S. PTO  
10/05/136  
01/25/02

CERTIFICATE OF MAILING

I hereby certify that this correspondence, on the date shown below, is being deposited with the United States Postal Service with sufficient postage as Express Mail Label No. EL565093478US in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231.

Date: January 25, 2002

*Nicole M. Gignac*  
Nicole M. Gignac

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

NEW APPLICATION TRANSMITTAL

1. Type of Application

This transmittal is for a continuation application.

2. Benefit of Prior U.S. Applications (35 U.S.C. Sections 119(e), 120, or 121)

The new application being transmitted claims the benefit of prior U.S. applications. Enclosed are ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATIONS CLAIMED.

3. Papers Enclosed

A. Required for filing date under 37 C.F.R. 1.53(b) (Regular) or 37 C.F.R. 1.153 (Design) Application

41 Pages of Specification  
3 Pages of Claims  
5 Sheets of Drawings

B. Other Papers Enclosed

1 Page of abstract

1005436436

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**4. Additional Papers Enclosed**

1. Preliminary Amendment
2. Information Disclosure Statement (37 C.F.R. 1.98)
3. Form PTO-1449 (PTO/SB/08A and 08B)
4. Sequence Listing Transfer

**5. COPY of Declarations or Oaths**

Enclosed and executed by Jeffrey Schlom; Judith Kantor; Donald Kufe; Dennis Panicali, and Linda Gritz.

**6. Language**

English

**7. Assignment**

Assignments of the invention have been recorded as follows:

1. Assignee: Therion Biologics Corporation  
Assignors: Dennis Panicali and Linda Dr. Linda Gritz  
Recordation Date: 12/27/1999  
Reel/Frame: 010462/0226
2. Assignee: Dana-Farber Cancer Institute  
Assignors: Donald Kufe  
Recordation Date: 12/27/1999  
Reel/Frame: 010462/0215
3. Assignee: Department of Health and Human Services, United States of America, The  
National Institutes of Health  
Assignors: Judith Kantor and Jeffrey Schlom  
Recordation Date: 12/09/1999  
Reel/Frame: 010894/0927

**7. Petition for Extension of Time**

Attached please find a copy of a Petition for a 2-month extension which is being filed concurrently in the USPTO under separate cover.

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**8. Fee Calculation (37 C.F.R. Section 1.16)**

Regular Application	Small Entity	Other Than A Small Entity
	\$370.00	\$740.00
Basic Fee: \$740.00		

<u>Claims</u>	Present <u>Extra</u>	<u>Rate</u>	Addit. <u>Fee</u>	<u>OR</u>	Other Than A <u>Small Entity</u>	Addit. <u>Fee</u>
Total: 20	Minus 20	= 0	x \$9 =		x \$18 =	\$ 00.00
Indep.: 4	Minus 3	= 1	x \$42 =		x \$84 =	\$ 84.00
[ ] 1st Presentation Multiple Dependent Claim			+ \$140		+280 =	\$ 00.00
	Total				Total	
	<u>Addit. Fee</u> = \$			<u>OR</u>	<u>Addit. Fee</u> = \$	84.00

Total Filing Fee: \$ 824.00

\* Please note that claim 1 remains in the initial filing and is included in the payment of fees and that a subsequent preliminary amendment is enclosed canceling claim 1.

**9. Fee Payment Being Made at This Time**

Enclosed

Filing Fee	\$ 824.00
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<b>Total Fees Enclosed</b>	<b>\$ 824.00</b>
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**10. Method of Payment of Fees**

Check in the amount of \$ 824.00 is attached.

**11. Instructions as to Deficiencies/Overpayment**

Please charge any deficiencies or credit any overpayments to Deposit Account No. 50-0850.

In re application of: Jeffrey Schlom; Judith Kantor; Donald Kufe; Dennis Panicali, and Linda Gritz  
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**12. Relate Back**

**\*Preliminary Amendment enclosed.**


**A. 35 U.S.C. Section 119(e)**

Amend the specification by inserting, before the first line, the following sentence:

“The following application is a continuation of U.S. Serial No. 09/366,670 filed on August 3, 1999, which is a continuation of PCT/US98/03693 filed on February 24, 1998, now abandoned, which claimed benefit under 35 U.S.C. §119 of U.S. Provisional Application 60/038,254 filed on February 24, 1997.”

Date: 1/25/02

Customer No. 26770

  
\_\_\_\_\_  
David S. Resnick (Reg. No. 34,235)  
Lana A. Shvartsman (Reg. No. 48,502)  
NIXON PEABODY LLP  
101 Federal Street  
Boston, MA 02110  
Tel. (617) 345-6057

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### REMARKS

In accordance with the provisions of 37 C.F.R. §1.97, this statement is  
being filed:

- X   (1) within three (3) months of the Filing Date or **before the mailing date of the First Office Action** on the merits; or
- (2) within three months of the mailing date of the PCT International Search Report; or
- (3) after the period defined in (1) but before the mailing date of a **Final Rejection or Notice of Allowance**, and the requisite Certification or fee under Rule 1.17(p), namely **\$180.00**, is included herein; or
- (4) after the mailing date of a **Final Rejection or Notice of Allowance** but before the payment of the **Issue Fee**, and the requisite Certification, petition, and petition fee are included herein.


It is respectfully requested that each of the documents shown on the attached Forms PTO/SB/08A and PTO/SB/08B be made of record in this application. Copies of these documents (CHECK ONE):

- are enclosed herewith; or
- X   have been cited in the parent application, and are thus not being resubmitted herein.

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100
1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	

Should any fees associated with the submission be required, the Commissioner is authorized to charge the missing fee to our Deposit Account No. 50-0850. Any overpayments should be credited to said Deposit Account.

Respectfully submitted,

  
David S. Resnick (Reg. No. 34,235)  
Lana A. Shvartsman (Reg. No. 48,502)  
NIXON PEABODY LLP  
101 Federal Street  
Boston, MA 02110  
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Fax: (617) 345-1300

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Date: January 25, 2002

Nicole M. Gignac

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

EXPRESS MAIL CERTIFICATE

"Express Mail" label number: EL565093478US  
Date of Deposit: January 25, 2002

I hereby state that the following *attached* papers and fees:

1. New Application Transmittal – Continuation Application (4 pp.);
2. Copy - Petition for Extension of Time (1 pg.);
3. Continuation Application (49 pp.): Spec. 41 pp.; Claims 3 pp.; Drawings 5 pp. and Abstract 1pg.;
4. Preliminary Amendment with Version to Show Marked Changes (8 pp.);
5. COPY – Declarations executed by J. Schlom, J. Kantor, D. Kufe, D. Panicali and L. Gritz (15 pp.);
6. Transfer of Sequence Listing (1 pg.);
7. Information Disclosure Statement (3 pp.);
8. PTO/SB/08A (1 pg.);
9. PTO/SB/08B (1 pg.);
10. Check - \$824.00;
11. Return Receipt Postcard;

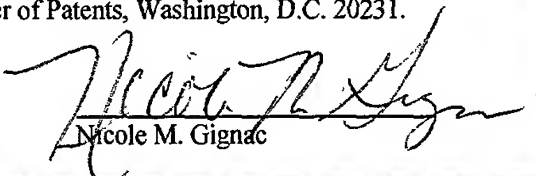
are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. section 1.10, on the date indicated above and is addressed to Box Patent Application, Assistant Commissioner for Patents, Washington, D.C. 20231.

Nicole M. Gignac

Signature of person mailing paper or fee

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Date: January 25, 2002	 Nicole M. Gignac

Assistant Commissioner for Patents  
Washington, D.C. 20231


TRANSFER OF SEQUENCE LISTING

The computer readable form in this application is identical with that filed in U.S.S.N. 09/366,670, filed August 3, 1999. In accordance with 37 C.F.R. 1.82(e), please use the computer readable form filed December 22, 1999, in that application as the computer readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used in the instant application.

In accordance with 37 C.F. R. §§ 1.821 – 1.825, I hereby state that the content of the paper, computer readable copies of the sequence listing submitted in accordance with 37 C.F.R. § 1.8219(c) and (e) on December 22, 1999, respectively, are the same. I hereby state that the submission filed in accordance with 37 C.F.R. § 1.82(g), does not introduce new matter.

Date: January 25, 2002

Customer No.: 26770

  
David S. Resnick (Reg. No. 34,235)  
Lana A. Shvartsman (Reg. No. 48,502)  
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